

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 1:06CR140-MHT
)	
WILLIAM TROY ARTHUR)	

GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION TO SUPPRESS

COMES NOW the Government, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and the undersigned Assistant United States Attorney, and hereby files this its *Response to Defendant's Motion to Suppress*. In support thereof, the Government offers the following:

FACTS

On September 21, 2005, William Troy Arthur was a passenger in a Nissan Sentra driven by Henry Almand. Dothan Police Department Officer Andy Hughes pulled over Almand for twice crossing the center line and a seatbelt violation against Arthur. Almand could not provide proof of insurance or a valid rental agreement for the rental car he was driving, and told Hughes a friend of Arthur's had rented the car.

Hughes asked Arthur for a driver's license, and saw Arthur's Florida Department of Corrections ID in Arthur's Wallet. Arthur said he could not remember the name of the friend who rented the car. Both men told Hughes they were staying at the Days Inn and were only in town for the day so that Arthur could meet a girl at the hotel. At this point, Hughes called for a K-9 unit (drug-sniffing dog).

While writing a uniform traffic citation for the seatbelt charge, Hughes asked Almand if there were weapons in the car, and Almand admitted he had a Ruger 9mm handgun under the seat but he did not have a permit for it. Dothan Police Department Officer Wise arrived, patted Almand down and cuffed him. Wise brought a K-9 unit with him.

Wise had the dog sniff the car. The dog indicated the car contained narcotics. Hughes had Arthur step from the car, and patted him down for weapons. He looked under the passenger seat, and discovered a Hi-Point 9mm pistol. Hughes then cuffed Arthur, and continued looking under the passenger seat. He found some methamphetamine (1.34gr) in a plastic bag, wrapped in a napkin. Arthur spontaneously told Hughes that the drugs and Hi-point handgun belonged to him.

Investigator Sean Malloy arrived, and learned Arthur had admitted to ownership of the Hi-Point handgun and the methamphetamine. He gave Arthur his *Miranda* warnings, and Arthur agreed to speak with him. Arthur again admitted to owning both the methamphetamine and the Hi-Point pistol. Arthur additionally consented, in writing, to a search of his hotel room. Officers located nothing of value, although they did find a large piece of shrink-wrap commonly used to package narcotics in the waste-basket.

ARGUMENT

_____ There is no disagreement between the Defense and the Government concerning the applicable law in this case. Rather, there are two issues of fact:

1. Whether Mr. Arthur spontaneously admitted that the methamphetamine and Hi-Point handgun were his, as alleged by Officer Hughes; and
2. Whether Mr. Arthur validly waived his rights under *Miranda* prior to his admissions in response to custodial questioning, as alleged by Investigator Malloy.

Wherefore, the Government respectfully requests that the Court conduct a hearing in this matter, and based upon the evidence presented, deny the Defendant's motion.

Respectfully submitted this 8th day of September, 2006.

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CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Donnie W. Bethel, Esq

Respectfully submitted,

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